IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

Kailash Kanwar Vs. State & Anr.

S.B. CRIMINAL REVISION PETITION NO.26/2001
under Section 397/401 Cr.P.C.

Date of Order:- 5/9/2006.

PRESENT
HON'BLE MR.JUSTICE HARBANS LAL

Mr. Ashvin Garg for the petitioner.
Mr. Arun Sharma P.P. for the State.
Mr. Anoop Dhand for non-petitioner No.2.

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BY THE COURT:-

This revision petition under Section 397/401 Cr.P.C. is directed against the order dated 9/11/2000 passed by the learned Additional Sessions Judge No.2, Sikar in Cr.Revision Petition No.103/1999 whereby he has quashed and set-aside the order dated 9/7/1998 passed by the learned Additional Chief Judicial Magistrate in Cr.Case No.138/1998 whereby cognizance had been taken against accused-respondent No.2 for offence under Section 406 I.P.C.

The relevant facts are that petitioner Kailash Kanwar filed a complaint before the learned Judicial Magistrate Sikar for offence under Section 406 I.P.C. on 18/4/1992 against Jagdish Singh, Inder

Singh, Barisal Singh, Kesar Kanwar and Smt.Sayar Kanwar with the allegations that she was married with Jagdish Singh according to Hindu religion and rites. Her marriage was performed at Village Kushalpura and sufficient dowry was given including Rs.72,000/- in cash but the accused persons were not satisfied with the dowry given in her marriage and they demanded a further sum of Rs.50,000/-. On failure to pay the said amount she was turned out of the house. The said complaint was forwarded to the police under Section 156(3) Cr.P.C. for investigation. After investigation, the police filed Final Report. On Protest Petition filed by the petitioner after enquiry under Sections 200 and 202 Cr.P.C. cognizance was taken on 9/7/1998 against the accused persons for offence under Section 406 I.P.C. The said order was challenged by way of revision before the learned Additional Sessions Judge No.2 Sikar who vide his order dated 9/11/2000 allowed the revision and set-aside the order dated 9/7/1998. Hence, this revision by the petitioner.

It is contended that the order of the learned court below is absolutely illegal and contrary to law as also against the materials on record. It is

submitted that earlier complaint filed by the father of the petitioner for offence under Section 498-A IPC was rejected and tried wherein non-petitioner Inder Singh was held guilty and sentenced but in appeal he was acquitted of the said charge. It is also pointed out that no trial was held for offence under Section 406 I.P.C. and the stridhan, details of which are mentioned in the complaint, is still with non-petitioner No.2. So, cognizance for offence under Section 406 I.P.C. was rightly taken by the learned trial court but the learned revisional court without considering the materials on record upset that order.

Learned counsel for non-petitioner No.2 as well as learned Public Prosecutor for the State have supported the the order of the learned Additional District and Sessions Judge No.2, Sikar. They have submitted that the learned court below has rightly held that the trial of this offence was time barred as held in **1999 Cr.L.R. (S.C.) 392**. They have also submitted that in the first complaint filed about this incident all the allegations levelled in this complaint were levelled but no cognizance for offence under Section 406 IPC was taken and the matter was not agitated before the higher court. That being so,

no fresh complaint on the same facts could have been filed.

I have carefully considered the respective submissions made at the bar and have perused the entire record. In my well considered view, there is no error, illegality or impropriety in the order passed by the learned Additional District and Sessions Judge No.2, Sikar. The learned court below has given not only the cogent and valid reasons in the order but has also held on the basis of the authorities of this Court as well as of the Apex Court that the cognizance could not have been taken in the year 1998 in respect of the incident which took place not only in the year 1990 but was also reported on 6/4/1992.

In this view of the matter, therefore, I do not find any cogent ground to interfere in the impugned-order.

Hence, this revision petition is hereby dismissed.

(HARBANS LAL), J.

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